

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JULY 7, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 25, 2005

AMENDED IN SENATE APRIL 18, 2005

**SENATE BILL**

**No. 954**

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**Introduced by Senators Figueroa and Dutton**

February 22, 2005

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An act to add ~~Section 12104~~ *Sections 12103.5, 12104, 12104.5, and 12114* to the Public Contract Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 954, as amended, Figueroa. Information technology goods and services: procurement.

Existing law sets forth the requirements for the acquisition of information technology goods and services by the state, and requires all contracts for the acquisition of those goods and services to be made by or under the supervision of the Department of General Services, with expenditures in this regard subject to the review and approval of the Department of Finance.

This bill makes certain findings regarding the manner in which state agencies procure information technology goods and services. This bill would require the Department of General Services ~~to conform with specified practices and guidelines in the~~, *on or before January 1, 2007, to develop policies and guidelines for the procurement of information technology goods and services, including developing checklists for requests for proposals, publishing policies regarding*

*obtaining bids for and purchasing information technology, establishing a centralized entity responsible for information technology procurement methods within the Department of General Services, consolidating functions, and communicating rules and requirements to vendors and the general public.*

*This bill would additionally require the Governor, on or before January 1, 2007, to submit to the Legislature a proposal to establish a Chief Information Officer within the Department of General Services, as described.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) The State of California depends on information technology  
4 ~~(H)~~ goods and services to accomplish its legally mandated core  
5 business functions and public services and it is in the best interest  
6 of the state to procure these services according to best practices,  
7 thereby rationalizing the process and providing a consistent basis  
8 for communication and decisionmaking.

9 (b) ~~H~~—*Information technology* improves the functioning of  
10 government by providing increased public access and enhanced  
11 customer service.

12 (c) Conducting business with technology industry vendors in a  
13 professional manner with an attitude of cooperative, direct, and  
14 straightforward communication serves the best interests of the  
15 State of California and its citizens for the following reasons:

16 (1) Vendors can better respond to the state if published  
17 business and technical requirements are clear.

18 (2) An efficient and effective procurement process saves the  
19 state valuable dollars and time, mitigating overall project risk  
20 long term.

21 (d) ~~H~~—*Information technology* goods and services are complex  
22 and multidimensional. The implementation of new technology  
23 invariably impacts existing technology, dependent and  
24 independent—~~H~~ *information technology* systems, governmental

1 business processes, operational expectations and outcomes, and  
2 future technical and operations choices for the functions of a  
3 governmental entity. Purchases, therefore, should be considered  
4 in the appropriate context with a total cost of ownership for the  
5 state.

6 (e) New information systems that require ~~IT~~ *information*  
7 *technology* goods and services for their implementation should  
8 be conceived in terms of a “solution.” Thinking and planning  
9 according to an ~~IT~~ *information technology* “solution” mindset  
10 appropriately considers the complete set of ~~IT~~ *information*  
11 *technology* goods and services required to complete an objective  
12 or set of objectives in the context of the actual business needs of  
13 the purchasing state agency. This also provides a means with  
14 which to consider the overall purchasing decision and weigh the  
15 benefits of different ~~IT~~ *information technology* options according  
16 to the total cost of ownership for the state.

17 ~~SEC. 2. Beginning January 1, 2007, for information~~  
18 ~~technology (IT) purchases for which the Department of General~~  
19 ~~Services prepares the request for proposal (RFP), the department~~  
20 ~~shall complete the following IT procurement checklist prior to~~  
21 ~~releasing the RFP:~~

22 ~~(a) Identify the legislative mandate or state business, or~~  
23 ~~operational reason for the IT procurement.~~

24 ~~(b) Identify the existing business processes currently used to~~  
25 ~~accomplish the legislative mandate, state business, or operational~~  
26 ~~reason.~~

27 ~~(c) Identify the most important priorities for the IT project to~~  
28 ~~accomplish.~~

29 ~~(d) Identify what current technology is being used and how it~~  
30 ~~is being used.~~

31 ~~(e) If the data used in a proposed IT system comes from~~  
32 ~~multiple sources, identify the existing business processes or~~  
33 ~~technical systems that produce and maintain the source data to~~  
34 ~~ensure interoperability.~~

35 ~~(f) Identify whether the proposed IT system is already being~~  
36 ~~used by the state. If so, determine what can be learned from the~~  
37 ~~design and implementation of the similar system.~~

38 ~~(g) Identify how the new IT project leverages existing~~  
39 ~~technology investments while accomplishing its business~~  
40 ~~objectives.~~

1     ~~SEC. 3. Section 12104 is added to the Public Contract Code,~~  
2     ~~to read:~~

3     ~~12104. The Department of General Services shall, when~~  
4     ~~procuring information technology (IT), conform to the~~  
5     ~~“Information Technology Procurement Guidelines.” The~~  
6     ~~guidelines are as follows:~~

7     ~~(a) The department shall communicate in writing all rules~~  
8     ~~governing a specific IT procurement process and all~~  
9     ~~project-related business and technical requirements impacting the~~  
10    ~~scoring and evaluation of that specific procurement. The rules~~  
11    ~~and requirements shall be included in the published request for~~  
12    ~~proposal (RFP). Any changes shall be communicated to all~~  
13    ~~bidding vendors and shall be posted in a public location. No~~  
14    ~~requirements other than those provided by law outside of the~~  
15    ~~published RFP and posted addenda shall be used by the~~  
16    ~~department to score bids.~~

17    ~~(b) IT solutions shall be procured according to reasonable~~  
18    ~~project phases.~~

19    ~~(c) Incumbent vendors shall not be precluded from delivering~~  
20    ~~future project implementation phases of large multiphased~~  
21    ~~information technology projects provided that the vendor has~~  
22    ~~successfully delivered technology to the state on past project~~  
23    ~~phases, the delivered technology works according to desired~~  
24    ~~objectives, and the technology was delivered on time and within~~  
25    ~~the given budget.~~

26    ~~(d) Information technology procurements of six million dollars~~  
27    ~~(\$6,000,000) or less shall be conducted according to~~  
28    ~~deliverable-based contracts that align vendor payments with~~  
29    ~~specific project deliverables.~~

30    ~~(e) The requirements of this section shall be in addition to any~~  
31    ~~other requirement provided by law.~~

32    ~~SEC. 2. Section 12103.5 is added to the Public Contract~~  
33    ~~Code, to read:~~

34    ~~12103.5. Beginning January 1, 2007, for those information~~  
35    ~~technology purchases for which the department determines that a~~  
36    ~~request for proposal (RFP) is appropriate, the department shall~~  
37    ~~complete the following information technology procurement~~  
38    ~~checklist prior to releasing the RFP:~~

39    ~~(a) Identify the legislative mandate, state business, or~~  
40    ~~operational reason for the information technology procurement.~~

1     ***(b) Identify the existing business processes currently used to***  
2     ***accomplish the legislative mandate, state business, or***  
3     ***operational reason.***

4     ***(c) Identify the most important priorities for the information***  
5     ***technology project to accomplish.***

6     ***(d) Identify what current technology is being used and how it***  
7     ***is being used.***

8     ***(e) If the data used in a proposed information technology***  
9     ***system comes from multiple sources, identify the existing***  
10    ***business processes or technical systems that produce and***  
11    ***maintain the source data to ensure interoperability.***

12    ***(f) Identify whether the proposed information technology***  
13    ***system is already being used by the state. If so, determine what***  
14    ***can be learned from the design and implementation of the similar***  
15    ***system.***

16    ***(g) Identify how the new information technology project***  
17    ***leverages existing technology investments while accomplishing***  
18    ***its business objectives.***

19    ***SEC. 3. Section 12104 is added to the Public Contract Code,***  
20    ***to read:***

21    ***12104. (a) (1) The State Administrative Manual shall be the***  
22    ***sole policy manual related to the department's purchase of***  
23    ***information technology.***

24    ***(2) On or before January 1, 2007, all department policies***  
25    ***related to the purchase of information technology, including, but***  
26    ***not limited to, policies discussed in management memoranda,***  
27    ***shall be set forth entirely in the State Administrative Manual.***

28    ***(3) Revisions to the manual must be publicly announced,***  
29    ***including, but not limited to, postings on the department's***  
30    ***Internet home page.***

31    ***(b) (1) The State Contracting Manual shall be the sole***  
32    ***manual related to the methods by which the department seeks to***  
33    ***obtain bids for the purchase of information technology.***

34    ***(2) On or before January 1, 2007, all department methods***  
35    ***related to obtaining bids for the purchase of information***  
36    ***technology shall be set forth entirely in the State Contracting***  
37    ***Manual.***

38    ***(3) Revisions to the manual must be publicly announced,***  
39    ***including, but not limited to, postings on the department's***  
40    ***Internet home page.***

1 (c) On or before January 1, 2007, the department shall  
2 designate a single entity within the department that shall be  
3 solely responsible for the development, implementation, and  
4 maintenance of standardized methods for the development of  
5 information technology requests for proposals.

6 (d) On or before January 1, 2007, the department shall  
7 consolidate those information technology procurement oversight  
8 functions currently performed separately by the Procurement  
9 Division and the Office of Legal Services.

10 (e) On or before January 1, 2007, the department shall, by  
11 regulation, specify the types of information technology  
12 procurements that shall be reviewed by the Office of Legal  
13 Services, or its successor, prior to release to the public.  
14 Regulations required by this paragraph shall be adopted in  
15 accordance with the Administrative Procedure Act (Chapter 3.5  
16 (commencing with Section 11340) of Part 1 of Division 3 of Title  
17 2 of the Government Code). Regulations shall be included in the  
18 State Administrative Manual.

19 (f) On or before January 1, 2007, the department, in  
20 consultation with the Department of Technology, shall, by  
21 regulation, promulgate uniform standards for information  
22 technology procurement that prioritize how the technology will  
23 advance the public policy purpose of the state program the  
24 information technology will serve over the department's, or  
25 client's, preference for a particular information product design.  
26 Regulations required by this paragraph shall be adopted in  
27 accordance with the Administrative Procedure Act (Chapter 3.5  
28 (commencing with Section 11340) of Part 1 of Division 3 of Title  
29 2 of the Government Code). The regulations shall be included in  
30 the State Administrative Manual.

31 SEC. 4. Section 12104.5 is added to the Public Contract  
32 Code, to read:

33 12104.5. (a) All rules and requirements governing a specific  
34 information technology procurement shall be communicated in  
35 writing to all vendors that have expressed an intent to bid and  
36 shall be posted in a public location. Any changes to the rules and  
37 requirements governing a specific information technology  
38 procurement shall be communicated in writing to all vendors that  
39 have expressed an intent to bid and shall be posted in a public  
40 location. No requirements other than those provided by law

1 outside of the published request for procurement and posted  
2 addendums shall be used by the department to score bids.

3 (b) The requirements of this section shall be in addition to any  
4 other requirement provided by law.

5 SEC. 5. Section 12114 is added to the Public Contract Code,  
6 to read:

7 12114. On or before January 1, 2007, the Governor shall  
8 submit to the Legislature a proposal to establish a Chief  
9 Information Officer (CIO). The plan shall include, but not be  
10 limited to, proposals that will:

11 (a) Allow the CIO to verify that the department facilitating  
12 further data center consolidation.

13 (b) Establish an information technology governing board. At a  
14 minimum, the board shall have the power to set information  
15 technology policy, approve information technology spending,  
16 and establish standards for determining how well or poorly state  
17 agencies are using information technology to improve their  
18 performance.

19 (c) Establish standards regarding the information and data  
20 collection practices of state agencies to ensure that  
21 decisionmakers in those agencies are held accountable for the  
22 performance of the agency, make informed decisions based upon  
23 reliable, contemporary data, and have at their disposal data and  
24 information revealing how the agency is performing, as  
25 measured against the public policies that led to the creation of the  
26 programs it administers.

27 (d) Ensure the CIO has the authority to exercise  
28 enterprise-wide leadership over the procurement and use of  
29 information technology.

30 ~~SEC. 4.~~

31 SEC. 6. This act is an urgency statute necessary for the  
32 immediate preservation of the public peace, health, or safety  
33 within the meaning of Article IV of the Constitution and shall go  
34 into immediate effect. The facts constituting the necessity are:

35 In order to protect the integrity of California's information  
36 technology procurement practices, and to ensure that the state is  
37 not wasting resources on poorly designed technology investments

- 1 that may fail to perform in critical state health and safety
- 2 programs, it is necessary that this act take effect immediately.

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